

# Mount Airy Board of Appeals

August 11, 2022

## Staff Report

### Special Exception Extension Request – Mixed-Use Development in CC District

### Recommendation to Board of Appeals

CASE MA-BOA-21-01

**Applicant:** GT Property LLC  
2017 Western Run Road  
Cockeysville, Maryland 21030

**Location:** North Main Street (MD 808) and Candice Drive

**Zoning:** CC District (Community Commercial)

**Property  
Acreage  
Subject of  
Special Exception:** 12.67 Acres

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The applicant is requesting an extension of the previously approved special exception, which was last approved on September 29, 2021, for at least one year. The applicant will seek a four (4) year extension as noted below. This special exception would expire on September 29, 2022, if not approved by this Board. See attached (Findings and Decisions dated September 29, 2021)

The applicant in a letter attached, dated August 3, 2022, requested an extension of (4) four years for this Special exception. The applicant explains that the process for approval of an MXU-CC parcel requires a much longer pre-concept approval process, which is ongoing as of this report.

*Town Code §112-62-A2 allows for a 12-month extension to obtain a building permit. (See below)*

§112-62-A2: Unless otherwise specified or extended by the Board of Appeals a special exception authorized by the Board expires if the applicant fails to obtain, where required to do so, a building permit or use certificate within 12 months of the date of the authorization of the special exception.

**Staff Recommendation:** Staff recommends approval of the extension of the special exception, MXU-CC §112-39C(12), for a residential use to be allowed over a CC Community Commercial zoned property to be approved. The Board of Appeals should set the duration of this request for

the special exception. Staff notes that the pre-concept plan review is ongoing and has been pursued with diligence. However, given the multiple workshops, Charrettes and that this is the first of two mixed-use developments undergoing the new mixed-use plan review process and that the Town Council has to approve the plans, it just has taken longer than the normal plan review process and the special exception granted a year ago is about to expire.

SHAFFER AND SHAFFER, LLP  
ATTORNEYS AT LAW  
73 EAST MAIN STREET  
WESTMINSTER, MARYLAND 21157

CLARK R. SHAFFER  
CLARK@SHAFFERANDSHAFFERLLP.COM

KELLY SHAFFER MILLER  
KELLY@SHAFFERANDSHAFFERLLP.COM

STACY P. SHAFFER  
STACY@SHAFFERANDSHAFFERLLP.COM

410/848-3737  
410/876-0100  
FAX: 410/848-3977

August 3, 2022

Mount Airy Board of Appeals  
c/o John Breeding  
Zoning Administrator  
110 S. Main Street  
Mount Airy, Maryland 21771  
*Sent via email and regular mail*

RE: Greentree Special Exception Case No. MA-A-21-01

Dear Board,

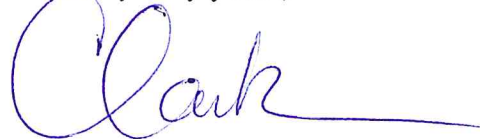
On behalf of GT Property, LLC, I write to request an extension of the Special Exception authorized by the Board in the above referenced case. This request is made pursuant to Section 112-62A(2) of the Mount Airy Code.

The reason for the request is that the process dictated by the Mount Airy Code to obtain a building permit or Use Certificate for this special exception use is such that it will take much more than twelve months from the date of authorization to achieve. In fact, the GT Property, LLC is actively proceeding through that process now and it has become obvious that the time period will well exceed the twelve months.

While it is hoped that the entire four-year extension is not needed, we request it to proceed with an abundance of caution.

Thank you in advance for your time and consideration.

Very truly yours,



Clark R. Shaffer

cc: File copy  
Frank Potepan  
Tom McCarron  
Ron Thompson

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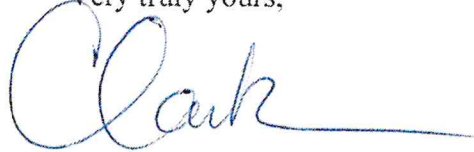
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Frank Potepan  
Tom McCarron  
Ron Thompson



# **TOWN OF MOUNT AIRY BOARD OF APPEALS**

## **FINDINGS AND DECISION**

### **CASE NO. MA-A-21-01 SPECIAL EXCEPTION HEARING SEPTEMBER 29, 2021**

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Applicants: GT Property, LLC ("Applicant")

Location: North Main Street (MD 808) and Candice Drive, Mount Airy, MD 21771 ("the Property")

Current Zoning: CC District (Community Commercial)

Acreage: 12.67 acres approximately

Current Use: Vacant

Proposed Use: Mixed Use Special Exception in the CC zone (MXU-CC)

WHEREAS, Applicants seek approval of a special exception to allow mixed use pursuant to a special exception application dated August 3, 2021; and

WHEREAS, the current zoning of the Property is Community Commercial (CC) which, pursuant to Sections 112-39, 112-39.1 and 112-62F(29) of the Town Code, permits a special exception for mixed use ("Mixed Use in the CC District" or "MXU-CC"); and

WHEREAS, an MXU-CC Special Exception was approved for the Property in 2018 (MA-A-18-01) for 112 townhome units, but allegedly due to market conditions, the special exception expired pursuant to Section 112-62A(2) of the Town Code; and

WHEREAS, prior to the MXU-CC special exception granted in 2018, the Property was approved for an elderly housing special exception for 172 townhomes in 2008, pursuant to Sections 112-39C(9) and 112-62F(16) of the Town Code, which likewise expired; and

WHEREAS, the concept plan submitted with the Applicant and/or introduced into evidence at the Board of Appeals hearing called for 70 townhomes; and

WHEREAS, at its regularly scheduled Planning Commission Meeting held on May 24, 2021, pursuant to the Town Code, §112-62B, the Town's Planning Commission took up and recommended approval of the MXU-CC special exception for the Property; and

WHEREAS, Town Staff similarly recommended approval of the special exception with the following conditions, conditioned upon (1) the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto, (2) the requirements and process set forth in Section 112-39.1 and Section 98-61, and (3) associated traffic improvements as determined by the Town in order to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable area; and

WHEREAS, pursuant to an Annexation Resolution for annexation of adjacent property containing 6.35 acres of land more or less, that Scotch Heather Avenue shall not be extended from the Summit Ridge Development North to the Property; and

WHEREAS, on September 29, 2021, the matter of the special exception application came before the Town's Board of Appeals pursuant to the Town Code, §§112-39C(12) and 112-62; and

WHEREAS, the following members of the Board of Appeals were in attendance: Kevin Jackson (Chair), Judi Stull (alternate), and Peter Helt; and

WHEREAS, the following members of the Board of Appeals were absent: Diane Gleason and Keith Gehle; and

WHEREAS, one position of the Board of Appeals is vacant; and

WHEREAS, Applicant was represented at the hearing by Clark Shaffer, Esquire; and

WHEREAS, all witnesses were duly sworn; and

WHEREAS, the following witnesses were called by counsel for Applicant and testified with opportunity for cross-examination:

Ronald Thompson, P.E., VanMar Associates, Inc. who was duly qualified as an expert in civil and traffic/transportation engineering

Frank Potepan, Member of the Applicant

WHEREAS, the following residents, adjoining property owners and/or attendees testified

and/or asked questions: Vince Olds; and

WHEREAS, the following exhibits were introduced with the Staff Report and/or by Applicant and/or are hereby marked as follows:

- Exhibit 1 - Petition for Special Exception with attached document entitled "Greentree Village MUX[sic]-CC Special Exception
- Exhibit 2 - Staff Report of John Breeding, Zoning Administrator and Community Planning Administrator
- Exhibit 3 - Concept plan for development Property (1 page)

WHEREAS, John Breeding provided a summary of the Staff Report and recommendation; and

WHEREAS, in summary, **Ronald Thompson** was offered and accepted by the Board as an expert witness in the field of land development, civil and traffic engineering and testified, in part in response to questions from (a) member(s) of the Board of Appeals, that he is a civil engineer with Van Mar Associates and has been the civil engineer for the Property since the development's inception, including with respect to the previous special exception approved by the Board of Appeals for MXU-CC in 2018; that he has a B.S. in Civil Engineering from Ohio State University and a Masters degree in Engineering from Penn State University; that he has over thirty years of experience in land development and as a civil engineer, the last 15 years of which have been in the Town; that in 2008 the Property was approved for an elderly housing special exception based on a concept plan proposing the development of 172 townhomes, which was extended by the Board of Appeals in 2009 and 2011; that in 2018 the Property was approved for a MXU-CC special exception based on a proposal to develop 112 townhomes, which expired due to market conditions; that the concept plan today calls for only 70 townhomes; that the development plans call for access to townhomes by means of alleyways to be owned and maintained by a homeowners' association ("HOA"); that the development plans call for Town water and sewer service; that a previous annexation agreement entered into with the Town for some of the Property approximately 15 years ago provided to the Town a public water well (Well No. 9); that the surrounding neighborhood consists of single family residential homes and a church; that Baltimore Gas & Electric power lines intersect the Property; that the current zoning for the Property is Community Commercial (CC); that all of the general and specific standards for the MXU-CC are met including that the proposed development would be an orderly extension of development in the Town; that the Property meets the minimum track size for the MXU-CC special exception, that there will be an adequate water supply and that the Town currently has an adequate water supply as defined under the Town's Adequate Public Facilities Ordinance (APFO); that the proposed development is in harmony with the intent of the current Town Master Plan; that the Property is bordered by public roads (Candice and N. Main Street), both of which

are considered collector road, with access to N. Main Street; that since 2018 a traffic signal has been installed at the intersection of N. Main Street and Maryland Route 27 (Ridge Road); that in his expert opinion there will be no adverse impacts that are special or unique to the proposed conditional use on the Property in comparison to other properties in the CC zone; that the current plan represents a substantial reduction in proposed residential units in comparison to the concept plans that formed the basis of the 2008 elderly housing special exception (172 units) and the 2018 approval of this same MXU-CC special exception (112 units) for the Property; and that without the MXU-CC special exception, the Property (being zoned in the CC District) could be developed as of right as a shopping center or something similar: and

WHEREAS, in summary, Frank Potepan testified that he is the managing member of the Applicant and has been in the construction business for several years, including previously with Catonsville Homes, which he co-founded in 1996; that he has development experience in and around the Town, including Nottingham Village and the redevelopment of a building on Main Street that had been destroyed by fire; that he has relevant degrees from Baltimore Poly-Tech, University of Maryland, Baltimore County (UMBC) and University of Baltimore; that the approval of an MXU-CC special exception is only the first step in a long development process; and that an HOA will be set up to handle the open space; and

WHEREAS, Vince Olds, a member of the public in attendance, asked what is next for the development to which Board Chairman Jackson described that the development will undergo the development review process before the Town's Planning Commission called for in the Town Code; and expressed concern that Candace is already a "speedway"; and

WHEREAS, the proceedings were video and audio recorded.

NOW, THEREFORE, the Board of Appeals upon receiving the evidence and upon motion to approve the Application, unanimously (3 votes to zero) to approve the Applicant and conditionally grant the MXU-CC special exception for the Property, having made the following findings and determinations:

1. That Applicant established by a preponderance of the evidence that Applicant has or can, through the site development review process, meet each of the general and specific standards for granting the special exception and specifically that:
  - a. General Standards
    - i. The proposed use, including its nature, intensity, and location, is in harmony with the intent of the Town Master Plan and the orderly and appropriate development of the district.



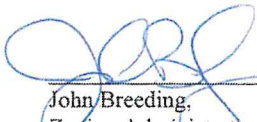
- ii. That adequate water supply, sewerage disposal, storm drainage and fire and police protection are or can be provided for the use.
  - iii. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature, and height of buildings, walls and fences.
  - iv. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.
  - v. That the specific standards (112-62 F) set forth for each particular use for which a special exception may be granted have been met except in the case of nonconforming structures where the Board determines that no adverse impact will result.
- b. Specific Standards (Section 112-62F(29))
- i. MXU-CC shall facilitate the integrated and orderly development of commercial, office, and residential uses on vacant tracts of Community Commercial (CC) zoned land in locations where high quality mixed use development can occur in harmony with surrounding land uses.
  - ii. Minimum Tract Size: The vacant tract must be a minimum of 10 acres in order to be considered for MXU-CC.
  - iii. Minimum Use Percentage Guidelines. A MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.
  - iv. A MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39.1 and Section 98.61.
2. That the conditional use for a MXU-CC on the Property would not impose a greater impact located on the Property as compared to other properties within the CC Zone. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 89-90 (2008), discussing and quoting *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981) ("We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location

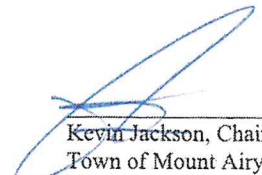



proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.”).

3. That the Applicant be and is hereby granted a special exception for Mixed Use in the Community Commercial Zone (MXU-CC) pursuant to §§112-39C(12) and 112-62F.(29) subject to the following conditions:
  - a. The minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto;
  - b. The requirements and process set forth in Section 112-39.1 and Section 98-61;
  - c. Associated traffic improvements as determined by the Town in order to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable areas; and
3. The exhibits and sign in sheet for witnesses are attached hereto.

ATTEST:

  
\_\_\_\_\_  
John Breeding,  
Zoning Administrator  
Community Planning Administrator  
Town of Mt. Airy

  
\_\_\_\_\_  
Kevin Jackson, Chair  
Town of Mount Airy  
Board of Appeals  


B2615079.DOCX

Exhibit 1  
BOARD OF APPEALS - TOWN OF MOUNT AIRY - MARYLAND

<b>PETITION FOR SPECIAL EXCEPTION UNDER ZONING ORDINANCE</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">CASE NO.</td> <td style="border-bottom: 1px solid black; width: 100px;"></td> </tr> <tr> <td style="padding: 2px;">DATE FILED</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="padding: 2px;">FILING FEE</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="padding: 2px;">DATE PAID</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="padding: 2px;">ZONING DIST.</td> <td style="border-bottom: 1px solid black;">Community Commercial (CC)</td> </tr> <tr> <td style="padding: 2px;">HEARING DATE</td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>	CASE NO.		DATE FILED		FILING FEE		DATE PAID		ZONING DIST.	Community Commercial (CC)	HEARING DATE	
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DATE PAID													
ZONING DIST.	Community Commercial (CC)												
HEARING DATE													

Petition is hereby made for a MXU-CC Special Exception under the Zoning Ordinance, as follows:

Location of property: SW Corner of North Main Street and Candice Drive  
NSEW side of road; distance NSEW from nearest intersecting road

Subdivision NA Lot NA Block NA

Street and Number N. Main Street Zoning Classification CC

Use Proposed:

Mixed Use Commercial and Market-Rate Townhouse Residential

Zoning Ordinance subsection(s) providing for proposed use: Sections 98-61 and 112-39.1

Owner of Property: Name GT Property LLC  
 Address 2017 Western Run Road, Cockeysville, Maryland 21030

Petitioner's present legal interest in property: (CHECK ONE)

☒ Owner (including Joint Ownership) ☐ Lessee ☐ Tenant other than as lessee (describe)

Has any previous petition of appeal involving this property been made to the Board: If so, give Case Number(s):  
MA-A-01-08, MA-A-18-01

Further comments, if any:

I hereby affirm that all of the statements and information contained in or filed with this petition are true and correct.

[Signature]  
 Signature of Petitioner

2017 Western Run Road, Cockeysville, MD 21030  
 Address of Petitioner

## Greentree Village

### MUX-CC Special Exception

The proposed Greentree Village MUX-CC Special Exception was first approved in 2008 (MA-A-2001-08) for 112 townhome units. The MUX-CC Special Exception was approved a second time in 2018 (MA-A-18-01) for 112 townhome units. Both of these Special Exceptions expired and a new MUX-CC Special Exception is requested.

The proposed Greentree Village Mixed Use Development will be a mixture of market rate residential and commercial providing an integrated and orderly development of a parcel of land at the northern gateway of the Town of Mount Airy. Development of the Greentree parcel as a mixed-use development will result in a more attractive development than would be possible through the strict application of the conventional commercial zoning requirements that currently exist on the property. By incorporating the residential component, the project provides an opportunity to transition from commercial to the surrounding residential communities.

The development plan includes market rate townhouse residential units and commercial consisting of a mixture of uses including retail, office and eateries. The residential elements will incorporate traditional neighborhood design which includes increased lawn areas in front of the residential townhomes. The integrated physical design components will include rear alleyway entry for the townhome parking, pocket parks, and sidewalks throughout. The architecture will reflect architectural principles that will create synergy both within the project and the surrounding community. These design guidelines will be memorialized in a pattern book.

Greentree Village is located along the northern most edge of Town along the MD 308/Main Street and the Route 27 corridor. The property is adjacent to residentially zoned land within both the Town and County. Two of the adjacent properties are churches and another is a commercially zoned property. We are going forward with this mixed-use design to provide an optimal aesthetic contribution to the land uses that form this northern portal into the Town.

## Mount Airy Board of Appeals

### Special Exception Request — Mixed Use Development in CC District Recommendation to Board of Appeals

CASE MA-

Applicant: GT Property LLC  
11175 Stratfield Court  
Marriottsville, Maryland 21104

Location: North Main Street (MD 808) and Candice Drive

Zoning: CC District (Community Commercial)

Property  
Acreage  
Subject of  
Special Exception: 12.67 Acres

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#### Background:

The subject property is a 12.67-acre parcel of commercially zoned land situated along the west side of North Main Street from the northern Town boundary at Candice Drive. The parcel has held a commercial zoning classification within the town since annexed into the municipal boundary in 1995. The site is surrounded by a 6.35-acre parcel of residentially zoned land (annexed to complement the 12.67-acre parcel) and is also surrounded by three residential subdivisions known as Christy Acres, Sterling Glen, and Summit Ridge. The Brown Property, a 1.08-acre parcel of land also zoned Community Commercial, lies adjacent to the subject parcel directly to the east. Residentially zoned parcels of land are situated to the south and southeast of the subject parcel with two of the parcels approved to operate as church facilities.

While the code provisions require authorization from the Board of Appeals to develop land in the CC District with a mix of residential and commercial components, the manner in which the lands are developed with respect to overall site configuration, lot layout, road access, open space, pedestrian connectivity, and traffic impact mitigation are implemented by the

Planning Commission through the general development review processes and supplemental regulations as governed by Town Code Section 98-61.

**Specific Standards - 112-62 (F)(29)**

Mixed Use Development in a CC District (MXU-CC) is a permitted special exception use subject to the following:

*A. MXU-CC shall facilitate the integrated and orderly development of commercial, office, and residential uses on vacant tracts of Community Commercial (CC) zoned land in locations where high-quality mixed-use development can occur in harmony with surrounding land uses.*

The subject property represents 12.67 acres of vacant land zoned Community Commercial (CC) meeting the zoning requirements of this statute. Ordinance 2017-7 as enacted allows the consideration of Mixed-Use Development in the CC District. Specifically, the boundary referenced tracts of commercial land along the MD 27 Corridor from the intersection at Twin Arch and Park Avenue northbound to the northern Town boundary at MD 27 and MD 808. The subject property falls within the physical boundary described and therefore meets this standard.

The project "provides an opportunity to develop the northern gateway of the Town in a more attractive manner than would be possible through the strict application of conventional commercial zoning requirements that currently exist on the property." In addition, the proposed project is described to provide an opportunity to transition from commercial to the surrounding residential, commercial, and institutional uses. Moreover, the mix of uses and site design sensitive to the surrounding land uses will facilitate the integrated and orderly development of commercial, office, and residential uses.

In order to provide a basic overview of the development vision for the property, a conceptual mixed-use site development layout is submitted as an exhibit to the special exception application. The layout reflects a predominantly residential community with 70 market rate townhouses and a two-story commercial building. The planned commercial uses as "retail, office, and eateries". Drive through service is also notated on the plan. A "pattern book" outlines the architectural and design of the townhomes and the commercial building that represents a high-quality mixed-use development. The dwelling type, proposed density, and overall site configuration will come under the scrutiny of the Planning Commission during the site development process to ensure harmony with the surrounding land uses.



When considering the proposed conceptual layout, the existing commercial zoning of the subject parcel, plausible "by-right" commercial development scenarios, zoning of adjacent land areas, and the mixture of existing residential and non-residential land uses in existence today, a mixed-use development on the subject property can more likely than not occur in harmony with the surrounding land uses.

We believe the proposed MXU-CC use as proposed meets this standard.

- B. *Minimum Tract Size: The vacant tract must be a minimum of 10 acres in order to be considered for MXU-CC.*

The subject site is 12.67 acres and therefore meets this standard.

- C. *Minimum Use Percentage Guidelines. A MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.*

An authorization of the special exception request from the Board of Appeals will include the aforementioned condition.

- D. *A MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-1 and Section 98.61.*

An authorization of the special exception request from the Board of Appeals would include the aforementioned condition.

#### General Standards Review:

In addition to specific standards for Mixed Use Developments in CC Districts, the following general standards must also be met as determined by the Planning Commission and Board of Appeals.

1. A special exception may be granted when the Board of Appeals finds from a preponderance of evidence produced at the hearing that:

- A. *The proposed use, including its nature, intensity, and location, is in harmony with the intent of the Town Master Plan and the orderly and appropriate development of the district.*

The 2013 Comprehensive Master Plan sets forth a goal to provide more opportunity, capability, and balance for near term development and

redevelopment efforts. The master plan supports the introduction and utilization of new zoning districts, along with the utilization of existing zoning classifications in more flexible fashion in order to implement this goal. Mixed Use Development, a recently adopted special exception use in the CC District, supports an integrative approach to the Town's infill development efforts as also guided by the comprehensive plan. Mixed-Use Development in the CC District is aimed at providing a more attractive residential and non-residential environment than would be possible through the strict application of conventional zoning district requirements. The MXU-CC development also encourages the harmonious and coordinated development and a mixture of uses that considers the compatibility with surrounding land uses. A strong emphasis is also placed on excellent design and architecture to protect the character of surrounding neighborhoods. Additionally, the supplemental requirements (59B-61) adopted relating to the special exception use require a very specific development process designed to ensure that the nature and intensity of the proposed use will result in the orderly and appropriate development of the commercial district to ensure the stated goals and objectives with respect to the special exception use will be met. As previously noted, the location of the subject parcel has already been deemed consistent with the intent of the adopted ordinance governing mixed-use developments in the CC District.

In general, the nature and location of the proposed use are in harmony with the intent of the Town Master Plan and that the proper code provisions are in place for the strategic evaluation to determine the appropriate intensity of the development with surrounding land uses.

*B. That adequate water supply, sewerage disposal, storm drainage and fire and police protection are or can be provided for the use.*

Certification of the Adequate Public Facilities Ordinance (APFO) occurs at such time as the concept plan is submitted pursuant to Chapter 25-5. Below is an overview of the general availability of public facilities noted above:

Water Supply and Sewerage Disposal: The project will connect to the Town's public water and sanitary sewer system. Related infrastructure will be extended by the developer. The proposed future development will undergo APFO Certification for water and sewerage disposal and will also be subject to the Town's water allocation process. The current pipeline allocation for Greentree Village approved in 2010 is 21,250 gpd as listed in the 2005 Consent Agreement and 2007 Consent Order with the Maryland Department of the Environment (MDE). Well #9, which was provided

with the annexation of 88 acres of parkland approximately 26 years ago, was brought online into the Town's water system in late 2004 with a total appropriation of 79,000 gpd with a portion of the water supply to be allocated to the Greentree Property for future development. The actual water and sewer allocation for the project will be determined by the Planning Commission and will be factored, in part, by the lot yield and commercial square footage approved during the development review process.

Storm Drainage: Stormwater Management is not a component of the Town's APFO review but will be part of the development review processes for the project. During the review process Carroll County Bureau of Resource Management will evaluate the concept and final site plans to ensure compliance with any previous stormwater management approvals.

Fire and Emergency Services: The concept layout was provided to the Mount Airy Volunteer Company to determine availability of services. Fire and Rescue services are deemed adequate at this time based on the information provided on the layout. A more in-depth plan review will take place during the concept and final site plan phase of the project should the special exception be authorized.

Police Protection: Police protection is a component of the APFO review process during the development review phase. The Town transitioned to its own police force on October 1, 2017. The Mount Airy Police Department is currently budgeted to support a 11 person police force.

- C. *That the use of adjacent land and buildings will not be discouraged, and the value of adjacent land and buildings will not be impaired by the location, nature, and height of buildings, walls and fences.*

The proposed Greentree Village Mixed Use Development will be a mixture of residential and commercial providing an integrated and orderly development of a parcel of land at the northern gateway of the Town of Mount Airy. Development of the Greentree parcel as a mixed-use development will result in a more attractive development than would be possible through the strict application of the conventional commercial zoning requirements that currently exist on the property. By incorporating the residential component, the project provides an opportunity to transition from commercial to the surrounding residential communities.

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- D. That the use will have proper location with respect to existing or future streets giving access to it and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.*

The concept layout is proposing the site be served by a total of two access points. A primary access point situated on North Main Street (MD 808) that provides a direct access to the planned commercial center and planned townhome residential community. An entrance is also proposed off of Candice Drive from the Commercial Center. Both Candice Drive and North Main Street are classified as collector roads rather than local residential streets.

Adequate Public Facilities Certification for Roads and Traffic Control Devices will first be tested during the concept plan development review phase. Recently a traffic signal was installed at the intersection of the MD 27 and MD 808 to provide improved intersection operations. A traffic study will be required at the concept plan stage of the development review phase in order to determine the level of impact that the proposed project will have on existing and planned intersections. That Traffic study will determine if additional traffic improvements are required.

- E. That the specific standards (112-62 F) set forth for each particular use for which a special exception may be granted have been met except in the case of nonconforming structures where the Board determines that no adverse impact will result.*

The specific standards have, or can be, met with the appropriate development of the site and review of all applicable site development standards during the concept and final site plan review stages and subsequent approval by the Planning Commission.

2. The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board of Appeals.

We believe that both the General and Specific Standard have or can be met with the appropriate development of the site and all applicable site development standards during the concept and final site plan review stages.





VANMAR  
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890  
(301) 695-0600

(301) 831-5015

(410) 549-2751  
Fax (301) 831-5603

GREEN TREE VILLAGE  
ADJOINERS LIST

Earl Franklin Angell  
Naomi May Angell  
1405 North Main Street  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 143

Earl Franklin Angell  
Naomi M. Angell  
1405 North Main Street  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 60

Gary Phillip Frey  
Patricia E. Frey  
1409 N. Main Street  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 96

Gary Phillip Frey  
1409 North Main Street  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 95

Allen G. Brown  
Claudette I Brown  
104 Prospect Road  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 162



VANMAR  
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890  
(301) 695-0600

(301) 831-5015

(410) 549-2751  
Fax (301) 831-5603

Bankers Trust Company Trustee  
c/o Baltimore Gas & Electric Co.  
Tax Accounting Unit  
P.O. Box 1475  
Baltimore, Maryland 21203  
Tax Map 70 Parcel 232

Mount Airy Baptist Church  
1402 N. Main Street  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 148

Charles Byron Katsirubas  
4250 Candice Drive  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 193, Lot 34

David H. Capper  
Sandra L. Capper  
4270 Candice Drive  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 193, Lot 33

Lee D. McBryde  
Michelle L. McBryde  
4288 Candice Drive  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 193, Lot 32

Duncan S. Snyder  
Patricia Reilly Snyder  
4299 Candice Drive  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel: 193, Lot 30A



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ASSOCIATES, INC.

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(301) 829-2890  
(301) 695-0600

(301) 831-5015

(410) 549-2751  
Fax (301) 831-5603

Robert Lester  
Diana Ruggeri  
1603 Porter Creek Court  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 231, Lot 2

Louis Samuel Dongmo-Zebaze  
Judith Agnes Mbouck  
1601 Porter Creek Court  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 231, Lot 3

Larry D. Chapman  
Debra K. Bruce  
1501 Terra Oaks Court  
Mount Airy, Maryland 21771  
Tax Map 70 Parcel 231, Lot 68

Ivan Jacob Browning  
Erin Amanda Browning  
1313 Scotch Heather Avenue  
Mount Airy, Maryland 21771  
Tax Map 0600 Parcel 322, Lot 166

Robert E. Deyo  
Lauren Deyo  
401 Horsechestnut Court  
Mount Airy, Maryland 21771  
Tax Map 0600 Parcel 322, Lot 167

Town of Mount Airy  
P.O. Box 48  
Mount Airy, Maryland 21771  
Tax Map 0600 Open Space Parcel Part of Summit Ridge Development Corp.  
Liber 2530 folio 716

# **Mount Airy Board of Appeals**

## **September 29, 2021**

### **Staff Report**

#### **Special Exception Request – Mixed Use Development in CC District Recommendation to Board of Appeals**

**CASE MA-BOA-21-01**

**Applicant:** GT Property LLC  
2017 Western Run Road  
Cockeysville, Maryland 21030

**Location:** North Main Street (MD 808) and Candice Drive

**Zoning:** CC District (Community Commercial)

**Property  
Acreage  
Subject of  
Special Exception:** 12.67 Acres

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#### **Background:**

The subject property is a 12.67-acre parcel of commercially zoned land situated along the west side of North Main Street from the northern Town boundary at Candice Drive. The parcel has held a commercial zoning classification within the town since annexed into the municipal boundary in 1995. The site is surrounded by a 6.35-acre parcel of residentially zoned land (annexed to complement the 12.67-acre parcel) and is also surrounded by three residential subdivisions known as Christy Acres, Sterling Glen, and Summit Ridge. The Brown Property, a 1.08-acre parcel of land also zoned Community Commercial, lies adjacent to the subject parcel directly to the east. Residentially zoned parcels of land are situated to the south and southeast of the subject parcel with two of the parcels approved to operate as church facilities.

While the code provisions require authorization from the Board of Appeals to develop land in the CC District with a mix of residential and commercial components, the manner in which the lands are developed with respect to overall site configuration, lot layout, road access, open space, pedestrian connectivity, and traffic impact mitigation are implemented by the Planning Commission through the general development review processes and supplemental regulations as governed by Town Code Section 98-61. The Board of Appeals may however attach specific conditions relating to site development to a special exception authorization to ensure that public interest is secured.

**Request for Special Exception:**

The applicant has submitted a petition for special exception to establish Greentree Village, a Mixed-Use Development in a CC District as permitted under Zoning Code, §§ 112-39C. (12), 112-39.1 and 112-62(F) (29).

Pursuant to Town Code Section 112-62(E), a special exception may be granted when the Board of Appeals find from a preponderance of the evidence produced at the hearing that both the General and Specific Standards can be met. Town Code Section 112-62(B) requires that all special exception requests be referred to the Town Planning Commission for recommendation.

Case MA-A-18-01 was presented to the Planning Commission at their March 26, 2018, meeting whereby several residents from surrounding residential communities provided comment on the special exception petition, the proposed conceptual layout, and potential development impacts. A summarization of those comments is provided as an attachment to this staff report.

The Planning Commission provided a favorable recommendation of the special exception petition. The recommendation was forwarded to the Board of Appeals subject to the following conditions:

The authorization of the MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.

The authorization of the MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.

Associated traffic improvements will be required as determined by the Town in order to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable areas.

**Specific Standards – 112-62 (F)(29)**

Mixed Use Development in a CC District (MXU-CC) is a permitted special exception use subject to the following:

- A. *MXU-CC shall facilitate the integrated and orderly development of commercial, office, and residential uses on vacant tracts of Community Commercial (CC) zoned land in locations where high-quality mixed-use development can occur in harmony with surrounding land uses.*

As previously noted, the subject property represents 12.67 acres of vacant land zoned Community Commercial (CC) meeting the zoning requirements of this statute. Ordinance 2017-7 as enacted allows the consideration of Mixed-Use Development in the CC District. A reference to the general physical boundary of the focus area for mixed-use development scenarios was included among the introductory statements of the ordinance. Specifically, the boundary referenced tracts of commercial land along the MD 27 Corridor from the intersection at Twin Arch and Park Avenue northbound to the northern Town boundary at MD 27 and MD 808. The subject property falls within the physical boundary described and therefore meets this standard.



According to the project narrative furnished by the applicant, the project "provides an opportunity to develop the northern gateway of the Town in a more attractive manner than would be possible through the strict application of conventional commercial zoning requirements that currently exist on the property." In addition, the proposed project is described to provide an opportunity to transition from commercial to the surrounding residential, commercial, and institutional uses. Staff concurs that a quality mixed-use project may yield a more compatible development scenario that is sensitive to the surrounding residential land uses than a typical commercial shopping center would offer. Moreover, the mix of uses and site design sensitive to the surrounding land uses will facilitate the integrated and orderly development of commercial, office, and residential uses

To provide a basic overview of the development vision for the property, the applicant submitted a conceptual mixed-use site development layout as an exhibit to the special exception application. The layout reflects a predominantly residential community very similar to the development plan approved for the establishment of the Greentree Village senior housing community in those 112 townhouses and a two-story commercial building continued to be proposed. The applicant describes the planned commercial uses as "retail, office, and eateries". Drive through service is also notated on the plan. The proposed architectural style of the development will be carefully evaluated during the development review plan phase. The applicant's narrative did however note that the residential elements of the project will incorporate traditional neighborhood design principles as well as traditional architectural principles. The mixed-use development process requires a "pattern book" outlining in detail the architectural and design details that will be implemented with the development to ensure that the project represents a high-quality mixed-use development. The dwelling type, proposed density, and overall site configuration will come under the scrutiny of the Planning Commission during the site development process to ensure harmony with the surrounding land uses.

When considering the proposed conceptual layout, the existing commercial zoning of the subject parcel, plausible "by-right" commercial development scenarios, zoning of adjacent land areas, and the mixture of existing residential and non-residential land uses in existence today, a mixed-use development on the subject property can more likely than not occur in harmony with the surrounding land uses.

Based on the above analysis, staff finds that the MXU-CC use as proposed can meet this standard. This finding is predicated upon strict adherence to the adopted code provisions governing specific MXU-CC development policies and processes set forth in Sections 98-61 and 112-39.1. These processes include the requirement for public hearing on the proposed plan, and all other development review processes as provided for in the town code.

*B. Minimum Tract Size: The vacant tract must be a minimum of 10 acres in order to be considered for MXU-CC.*

The subject site is 12.67 acres and therefore meets this standard.

*C. Minimum Use Percentage Guidelines. A MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.*

An authorization of the special exception request from the Board of Appeals will include the condition.

*D. A MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.*

An authorization of the special exception request from the Board of Appeals will include the condition.

**General Standards Review:**

In addition to specific standards for Mixed Use Developments in CC Districts, the following general standards must also be met as determined by the Planning Commission and Board of Appeals.

1. A special exception may be granted when the Board of Appeals finds from a preponderance of evidence produced at the hearing that:
  - A. *The proposed use, including its nature, intensity, and location, is in harmony with the intent of the Town Master Plan and the orderly and appropriate development of the district.*

The 2013 Comprehensive Master Plan sets forth a goal to provide more opportunity, capability, and balance for near term development and redevelopment efforts. The master plan supports the introduction and utilization of new zoning districts, along with the utilization of existing zoning classifications in more flexible fashion to implement this goal. Mixed Use Development, a recently adopted special exception use in the CC District, supports an integrative approach to the Town's infill development efforts as also guided by the comprehensive plan. Mixed-Use Development in the CC District is aimed at providing a more attractive residential and non-residential environment than would be possible through the strict application of conventional zoning district requirements. The MXU-CC development also encourages the harmonious and coordinated development and a mixture of uses that consider the compatibility with surrounding land uses. A strong emphasis is also placed on excellent design and architecture to protect the character of surrounding neighborhoods. Additionally, the supplemental requirements (§98-61) adopted relating to the special exception use require a very specific development process designed to ensure that the *nature and intensity* of the proposed use will result in the orderly and appropriate development of the commercial district to ensure the stated goals and objectives with respect to the special exception use will be met. As noted above, the *location* of the subject parcel has already been deemed consistent with the intent of the adopted ordinance governing mixed-use developments in the CC District.

Staff finds that, in general, the nature and location of the proposed use are in harmony with the intent of the Town Master Plan and finds that the proper code provisions are in place for the strategic evaluation to determine the appropriate intensity of the development with surrounding land uses.

- B. *That adequate water supply, sewerage disposal, storm drainage and fire and police protection are or can be provided for the use.*

Certification of the Adequate Public Facilities Ordinance (APFO) occurs at such time as the concept plan is submitted pursuant to Chapter 25-5. Below is an overview of the general availability of public facilities noted above:

*Water Supply and Sewerage Disposal:* The project will be required to connect to the Town's public water and sanitary sewer system. Related infrastructure will be extended by the developer. The proposed future development will undergo APFO Certification for water and sewerage disposal and will also be subject to the Town's water allocation process. The current pipeline allocation for Greentree Village approved in 2010 is 21,250 gpd as listed in the 2005 Consent Agreement and 2007 Consent Order with the Maryland Department of the Environment (MDE). Well #9, which was provided with the annexation of 88 acres of parkland, was brought online into the Town's water system in late 2004 with a total appropriation of 79,000 gpd with a portion of the water supply to be allocated to the Greentree Property for future development. The actual water and sewer allocation for the project will be determined by the Planning Commission and will be factored, in part, by the lot yield and commercial square footage approved during the development review process.

*Storm Drainage:* Stormwater Management is not a component of the Town's APFO review but will be part of the development review processes for the project. During the review process for Greentree Village Senior Housing Community, the applicant entered into an agreement with the County to expand stormwater management facilities to accommodate other drainage in the vicinity. Carroll County Bureau of Resource Management will evaluate the concept and final site plans to ensure compliance with any previous stormwater management approvals.

*Fire and Emergency Services:* The concept layout was provided to the Mount Airy Volunteer Company to determine availability of services. Fire and Rescue services are deemed adequate at this time based on the information provided on the layout. A more in-depth plan review will take place during the concept and final site plan phase of the project should the special exception be authorized.

*Police Protection:* Police protection is a component of the APFO review process during the development review phase. The Town transitioned to its own police force on October 1, 2017. The Mount Airy Police Department is currently budgeted to support a 11 person police force.



- C. *That the use of adjacent land and buildings will not be discouraged, and the value of adjacent land and buildings will not be impaired by the location, nature, and height of buildings, walls, and fences.*

The applicant of a special exception bears the burden of proving by a preponderance of evidence that the proposed use will not discourage use of adjacent land and buildings. The applicant will have the opportunity to address the Board of Appeals to offer sufficient evidence that the use of adjacent lands will not be discouraged. Given the unique development review process required in conjunction with MXU-CC developments, staff anticipates that a successful site design can be achieved with input from the public to ensure compliance with this standard.

- D. *That the use will have proper location with respect to existing or future streets giving access to it and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.*

The concept layout is proposing the site be served by a total of two access points. A primary access point situated off North Main Street (MD 808) that provides a direct access to the planned commercial center will also serve as a connection to the planned residential community. An entrance is also proposed off Candice Drive intended to serve as a secondary access to the residential component of the proposed project. Both Candice Drive and North Main Street are classified as collector roads rather than local residential streets.

Adequate Public Facilities Certification for Roads and Traffic Control Devices will first be tested during the concept plan development review phase. Based upon the findings in the MD 27 Corridor Study, the Town is aware of the current level of service failures that occur at the intersection of the MD 27 and MD 808 during peak trip hours. Staff anticipates that regardless of the manner that the Greentree Property is developed, traffic generation as a result will add to the existing congestion at this intersection. A traffic study will be required at the concept plan stage of the development review phase to determine the level of impact that the proposed project will have on existing and planned intersections. Staff anticipates that associated improvements will be required to mitigate the traffic impact to address congestion.

- E. *That the specific standards (112-62 F) set forth for each particular use for which a special exception may be granted have been met except in the case of nonconforming structures where the Board determines that no adverse impact will result.*

The specific standards have, or can be, met with the appropriate development of the site and review of all applicable site development standards during the concept and final site plan review stages and subsequent approval by the Planning Commission.

2. The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board of Appeals.

**Staff Recommendation:**

Staff finds that both the General and Specific Standards have, or can be met, with the appropriate development of the site and all applicable site development standards during the concept and final site plan review stages. This finding is based upon the evidence provided by the applicant in their justification statement as to the merits of the development, the proposed concept plan layout, and in consideration of the requirements set forth by the development review processes and adequate public facilities ordinance. Staff therefore recommends that the Board of Appeals authorize the special exception subject to the following conditions:

- 1) The authorization of the MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.
- 2) The authorization of the MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.
- 3) Associated traffic improvements will be required as determined by the Town to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable area.



